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To the Honorable GENERAL ASSEMBLY,

NOW IN SESSION, AT NEW-HAVEN.

THE present claimants, and proprietors of the lands purchased of this state, commonly called the *Gore*, by their subscribing agents, beg leave, once more to represent ; —That the first proposition for a purchase of said lands, was made by General Ward, and Colonel Halfey, at the session of the Assembly in May 1794, wherein they set forth the title of the state, to a strip, Gore, or tract of land, by virtue of their charter, and offered to be at the expence of the sale thereof, in some foreign market, and to return the state one half of the net proceeds, provided, they could be vested with power to make sale of the same. That on the 14th of October following, they presented another memorial to the General Assembly, in the following words, "That there was a tract of land lying north of the north line of Pennsylvania, extending the whole length of that state, and south of the Massachusetts true line, which your memorialists believe is the property of the state of Connecticut, altho, it has not been claimed by said state to effect:—and that said tract of land from the operation of a variety of concurring circumstances is in imminent danger of being totally lost to this state, being claimed by the state of New-York in part, and in part by Massachusetts; by the latter it has been actually in part sold to Messrs Phelps and Gorham and Robert Morris, from whom it has been sold to some rich Europeans: and that part claimed by New-York, to the honorable Robert L. Harper, and James Watson and others, who have considerable settlements thereon; that every year's delay under those circumstances must tend to embarrass the title of Connecticut, and render a recovery of said land more uncertain, if not hopeless; to arrest this piece of property in its progress towards utter loss, your memorialists, beg leave to propose to your honors, to make to them a grant of all the right title, and interest of this state in and to said land, upon the following conditions; that as soon as your memorialists shall have acquired either by a legal course of proceedings, or in any other way, quiet and peaceable possession of said lands, and extinguished the Indian title there-to, they will convey to this state one half thereof, or pay to them the sum of £3000 in Connecticut State notes for a grant thereof, from this State, by a release of all the right, title, and claim of this state to the said lands, &c. whereupon your memorialists humbly pray your honors to take the matter aforesaid, into your wise consideration, and grant to them the lands aforesaid, on either of the conditions aforesaid, which they conceive will be a clear saving to the State, and they flatter themselves, might be some advantage to themselves, and reward for their pains and trouble in examining the title to said land which they have truly stated to this assembly, and as in duty bound, &c." On which application, the honorable assembly were induced to attend to the subject, and to appoint a joint committee to take the matter into consideration, which committee thereon amongst other things reported as follows;—

"We the subscribers appointed a committee to inquire into the situation, and circumstances of a tract of land contained within the charter of this state, lying north of the state of Pennsylvania, and South of the commonwealth of Massachusetts, and to make report this session, &c. beg leave to report, that having examined into the situation of said lands, we find that the same is a strip of land lying within the charter description of this state, north of the north line of Pennsylvania, and south of the south line of Massachusetts, that the same is about two and one third miles in width, and extending from the north-east to the N. west corner of Pennsylvania, being about two hundred and twenty miles in length, that about forty miles of the east end of said tract is claimed by New-York, and about forty more claimed by Messrs Phelps and Gorham, under a purchase from Massachusetts, but since sold to Robert Mor-

riss, Esq. and a considerable number of settlers have got on said lands under said two claims, &c. which is submitted by your honors, obedient humble servants.

"Signed, per order,

THOMAS SEYMOUR."

Which second application on the 30th, and report on the 31st, of Oct. 1794, were continued to the session of said Assembly in May then next following, at which session, the subject was revived, and deliberately under consideration, during the session, and the sum offered for said land was enhanced to about £7,000. but said offers not meeting with that prompt acceptance, which had been expected, and the state-house being at a stand, and unfinished, the minds of said applicants were led by some of the honorable members, whereby they were induced to make the state the following different offer.

"Whereas the undersigned have made proposals which are now pending before this Assembly to purchase a strip or gore of land lying north of Pennsylvania, and south of Massachusetts charter line, and within the charter of this state, and whereas the state-house in Hartford appears to be at a stand, without any immediate prospect of the said house being soon finished—The subscribers beg leave to propose to this Assembly, that on consideration, the Assembly will grant to them said strip, or gore of land, and the benefit of the lottery, together with the materials, that they will compleatly finish said house within two years, according to the proposed plan of said building, and will give security for the faithful performance thereof, and therefore pray that a grant may be made to them on said conditions, &c.

"Signed,

HALSEY and WARD."

The subject matter of which last proposal was referred to a committee, on whose report the prayer of said memorial was granted, in the house of representatives, with liberty of a bill, &c. and negatived in the upper house, on which a committee of conference were appointed on the differing votes of the houses, on whose report the honourable upper house voted to adhere to their first vote; but soon after, on further reflection, granted to the said applicants all lands lying east of a tract of land sold by the United States to the state of Pennsylvania, near Presque-Isle, in which the house of representatives concurred—and by a bill in form, said Assembly passed the same into a resolve in the words following:

"STATE OF CONNECTICUT!—

"At a General Assembly of the state of Connecticut, in America, holden at Hartford on the second Thursday of May, being the 14th day of said month, and continued by adjournment from day to day, until the 5th day of June following, A. Domini, 1795.—On the memorial of Andrew Ward and Jeremiah Halfey, shewing to this Assembly, that they have heretofore made proposals for purchasing of this state, *all its right, title and interest* in, and unto a certain tract, or parcel of land, lying within the original charter limits of this state, north of, and adjoining upon the north line of the commonwealth of Pennsylvania, and south of the original charter south line of the commonwealth of Massachusetts, extending from the northwest to the northeast corner of Pennsylvania, and that they are willing to receive a conveyance thereof, and in payment therefor, to finish and complete the state-house now building in the city of Hartford, the out side, and second story thereof fit for the use of the General Assembly, by the first day of May next, and the residue thereof by the first day of May, A.D. 1797, taking to themselves the benefits of all materials, heretofore purchased for that purpose, the net avails of the lottery heretofore granted, and drawn for the same purpose, and all moneys given, or granted towards the building of said state-house, and praying that the said land may be conveyed by deed of quit claim to them upon the terms aforesaid;—Resolved by this Assembly, that as soon

" as the said Jeremiah and Andrew shall have executed and
 " given a bond with sufficient sureties, to the satisfaction of
 " the committee heretofore appointed to superintend the
 " building of the said state-house, in the penal sum of forty
 " thousand dollars, payable to the Treasurer of this state and
 " his successors in that office, conditioned, that they the said
 " Andrew and Jeremiah, do cause the said state-house to be
 " finished and completed according to the original design
 " and plan thereof, the out side and second story or upper
 " part thereof, by the first day of May next, and the residue
 " thereof by the first day of May 1797, by the advice and
 " according to the directions of the said committee, and also to
 " discharge and save this state, and said committee harmless
 " of, and from all just demands and contracts heretofore
 " made and arising in and about the building of the said state-
 " house, and all the just demands which the said committee
 " may have against this state, or any other body or persons,
 " on account of their concerns therein; and the same being
 " certified by the said committee to his excellency the gov-
 " ernor; his excellency the governor be, and he is hereby re-
 " quested, authorised and empowered in the name and behalf
 " of this state, to execute and deliver to the said Andrew
 " and Jeremiah a deed or deeds, therein and thereby convey-
 " ing, releasing and quitting to them, their heirs and assigns
 " forever, *all the rights, title and interest*, which this state
 " hath in, and unto so much of the before described land, ly-
 " ing north of, and adjoining upon the said north line of
 " Pennsylvania, as the same is now claimed by the said state
 " or commonwealth of Pennsylvania, and south of the said
 " south line of Massachusetts, and lying east of a tract of land
 " sold by the United States to the state of Pennsylvania, lying
 " near Presque-Isle: and upon the execution and delivery of
 " the said bond, the said Andrew and Jeremiah are authori-
 " sed to receive from the said committee, all the materials, al-
 " ready provided for the said state-house, and also the net
 " avails of the said lottery heretofore granted, and drawn for
 " the said building, but no other or further lottery, or scheme
 " of a lottery, shall be made upon the grant of the said lottery
 " heretofore made."

The conditions of which resolve being fulfilled on the part
 of the said Ward and Halfey, on the 25th of July following,
 a deed or patent, by and under the authority of the State of
 Connecticut, was executed, including the words following:—
 " Know ye, that I Samuel Huntington, governor, &c. by
 " virtue of the powers and authorities to me given by the
 " General Assembly of the State of Connecticut, for, and
 " in consideration of the sum of 40,000 dollars, well and
 " truly secured to be paid unto the State of Connecticut, by
 " Andrew Ward and Jeremiah Halfey, in the name and
 " behalf of said state, do by these presents, release, remise and
 " forever quit claim, unto the above named Andrew and Jer-
 " emiah, their heirs and assigns, *all the right, title, interest and*
 " *estate*, which the state of Connecticut hath, in and unto
 " a certain tract or parcel of land, bounded, &c. as aforesaid:
 " —To have and to hold unto them, their heirs, and assigns
 " forever; so that neither the state of Connecticut, nor
 " any person, or persons, from, by, or under the said state,
 " shall, or by any way or means, hereafter have claim, chal-
 " lenge or demand of any estate, right, title, or interest, of,
 " in, or to the premises, or any part thereof, but from *all*
 " and *every* action, *right*, estate, title, interest, or demand of,
 " in, or to the premises, or any part thereof, shall be *utterly*
 " *excluded*, and debarred forever by these presents,"—
 as by the records of the state appears:—

Further, the memorialists would represent, that the present
 proprietors, who are not the original purchasers, but are, in
 many instances, sundry removes from them, and who are now
 become, the only proper claimants, were encouraged, and in-
 duced by a view of those petitions, by the grant of the As-
 sembly, the resolve of October, 1797, which was unlimited
 in point of time, and the confirmatory deed of the governor;
 and the original sale being under the authority of this state;
 and being a title derived from Connecticut to purchase into

said contract: well assured, that as the state of Connecticut
 possessed a title, derived from the proper legal source, a char-
 ter, granted by royal authority, and founded upon the most
 clear and express grants of the crown; and a grant, which in
 fact, included within its limits, *this tract*, or purchased terri-
 tory, the Gore:—and that there neither was, nor could be,
 any claim thereon, otherwise than by an usurped illegal pos-
 session; that therefore all purchasers under a grant from said
 state of Connecticut, could not but be safe, in adventuring
 their property therein, in point of title.—And as by said grant,
all the right, interest, estate, and former claims of said state, of
 every kind, and description, were actually, or impliedly pas-
 sed to said grantees, in so explicit, and effectual a manner,
 by those general comprehensive terms, as that no revocation
 could be ever contemplated by them, for a moment:—under
 these impressions, and those covenants, securities, and encou-
 ragements, thus held out, the present owners were led to lay
 out their monies, expend their estates, trust their property,
 and extend their credit to a great amount:—nor did they
 conjecture, or even suppose, that it was possible that the bona
 fide purchasers, and after owners under said grantees, could be
 prevented the full use, and enjoyment of all the benefits of
 said grant, in the most full, extensive, and unlimited sense:
 a number therefore of more than one hundred persons, from
 the different states of Massachusetts, Rhode-Island, Vermont,
 Connecticut, New-York, and Virginia, have interested them-
 selves in said purchase, and in many instances, at the rate of
 from three to four hundred thousand dollars.—That the
 memorialists having understood that there was on this tract,
 a number of inhabitants or settlers, under a pretended title
 derived from the state of New-York; to prevent every incon-
 venience that might accrue to any of them by a removal,
 made them the offer that they might all continue in the quiet
 and peaceable enjoyment of all their possessions and improve-
 ments, they only paying to the purchasers, the price those
 lands were worth in a state of nature, which offer being de-
 clined, they were compelled to an appeal to the judiciary de-
 partment to obtain that justice and right, that was their due,
 by virtue of the purchase; four suits by writs of ejectment
 were accordingly instituted, and made returnable to the cir-
 cuit court of the United States, within the district of Connec-
 ticut, as early as September, 1796, against sundry of said resi-
 dents upon said lands as aforesaid, who claimed title under
 the state of New-York; and with the most indefatigable in-
 dustry, and at great expence, said suits have been pursued to
 September last, to obtain a decision of said court upon the
 title and merits of the controversy, according to the rules of
 justice, measured by the laws of the land; but by the address
 of our adversaries, and various other delays, not unusual in
 law suits, have been thus long prevented: although during
 said progress, seven interlocutory decisions have been record-
 ed in favor of the memorialists; amongst which, was this
 important one, that the suits were well before the court in the
 district of Connecticut, which had been repeatedly determined
 by different judges, and so, in a favorable train, said dispute
 was proceeding to a final issue, until at the term of said circuit
 court, holden at Hartford in September last, the coun-
 cil from New-York, for the defendants in said suits, again
 entered their plea to the jurisdiction of said court, in the
 words following, viz.—“ That since the last continuance of
 “ those actions, the state of Connecticut, had renounced for-
 “ ever, for the use and benefit of the United States, and of
 “ the several individual States who may be therein concern-
 “ ed, respectively, and of those deriving claims or title from
 “ them, or any of them, all the territorial and jurisdictional
 “ claims whatever, under any grant, charter, or charters
 “ whatsoever, to the soil and jurisdiction of any, and all lands
 “ whatever, lying westward, north-westward and south-west-
 “ ward, of those counties in the state of Connecticut, which
 “ are bounded westward, by the eastern line of the state of
 “ New-York, as ascertained by agreement in the year 1733;
 —and made proof, that those lands as claimed in those suits
 were comprised within those limits, as therein described:—

when on a most thorough investigation of the subject, and defence against the effect of said plea, by council, learned in the law, it was decided, by the unanimous opinion of said court, that the above-mentioned renunciation, had placed said lands, without the jurisdiction of Connecticut district; and had therefore, divested them of all jurisdiction over the same; that they therefore could take no further cognizance of said causes.

Whereupon, your memorialists would observe, that neither the history of America, or the world at large, brings to their view, one solitary instance, where large tracts of territory have been sold, or grants made by any potentate, state or nation, to their own subjects or citizens, that the benefits of government, or advantages derived therefrom, especially when to establish or quiet in them, the title and rights thus purchased, have been denied them; nor of any nations, renouncing the jurisdiction in, and over, such their grant, and thus casting the trial of the rights of their citizens, (contrary to their wills, and the original grant) under the dominion of a foreign jurisdiction, disfranchising them from all the blessings of their own native country, and subjecting them to a trial of those rights, in a foreign jurisdiction, where every prejudice, undue influence, and clashing interests opposes an impartial trial of their claim;—but for time immemorial have the laws of such states, and the rights of the exercise of governmental powers, ever been voluntarily extended and considered sacredly attached to any, and every sale, that any state has made of its territory, to its own citizens; and that the rights and blessings of jurisdiction were ever considered, as a thing of course, in all such grants, and as a part, parcel, and appendage of, and to the territorial right inseparably appertaining with all its advantages, where no express exception thereof was made, and was so considered by this honorable Assembly in October, 1797, and comes with tenfold more reason, when essentially necessary for gaining or securing that title, for which they had received a full, and ample consideration, according to contract:—

That in the grant and sale of the state of Connecticut, by their deed or patent, the general and comprehensive term, *All the rights of the state of Connecticut*, were fully and expressly released and conveyed to the grantees; that all the rights, were all the rights be they of whatever nature, or description, that the state held, claimed, or possessed; there is no exception expressed, or can be implied; if she had the right of territory, this is conveyed by the grant; if she had the right of the exercise of governmental powers or jurisdiction, this also was sacredly secured and retained, as far as civil policy would admit;—That one of those rights was a right of trial of the merits of their claim, within the district of Connecticut; this was an all-important right to them, and on which they much depended, and without which, as they knew the claim of New-York before their purchase, they should have considered it of no consequence worthy of contest;—That this, the circuit court of the United States, on a solemn argument, once and again has decided, was one of their rights, was a right that accrued to the proprietors by virtue of the purchase from the state, that said suits were well brought in said district, and that a court and jury in the district of Connecticut were fully competent for the trial of said claim:—The same court has also at the last session determined, that the acts and proceedings of this Honorable Assembly in May last, has destroyed that right, “has divested the court when within the district of Connecticut, of all power, or right of jurisdiction in and over said lands.”—Which leads us to reflect on the rules of law, founded in strict reason, and on the immutable principles of right and wrong; and sanctioned by universal practice, that no subse-

quent act of a grantor, can in any way effect, impair, or destroy any grantee's right or title, without the grantor being holden on every principle of law, equity, and good conscience, to make good in every respect, all damages and losses, that may be consequent therefrom, or ensue to the grantee thereby:—And your memorialists conceive, they ought further to shew to your honors, that they in the prosecution of this business, for five years and more, and for maintaining those four actions, and the necessary expences that have been attendant thereon through an arduous contest, and the expences they have necessarily been obliged to incur in Philadelphia, New-York, Connecticut and Massachusetts, have been compelled to tax themselves in five different assessments, to the amount, with the proceeds of the sale of three of the company's scrip, of the sum of 14,149 dollars and 38 cents, which sum, with what the company are now indebted, together with a small reward to those of the directors, who have been for years employed in an arduous service, will make a sum of 20,149 dollars and 38 cents, which is the amount of the company's debts and expences to this time, exclusive of the costs taxed by said court, against the plaintiffs in each of said suits.

As to the extent and dimensions of the Gore, the memorialists have found upon accurate observation, by the assistance of the astronomical artists, or professors and instruments of Harvard and Yale colleges, that the width from the 42d degree of north latitude, is eight miles, and by the admeasurement of Pennsylvania and New-York, the length to be two hundred and forty miles; so that there is contained within it 1,228,800 acres; which in the year 1795, at a moderate estimate, was worth two dollars pr acre at a medium, considered as in a state of nature.

Upon the aforesaid representation and state of facts, it will readily occur to the mind of this honorable Assembly that the memorialists can proceed no further at law, than by going into the state of New-York and there commencing suits, which must be subject to all that undue influence, which may there be expected; and finally be tried by jurors, who are citizens of that state, drawn from the county where said land is situated, and who by the existing laws of the state of New-York, are bound to judge against the title of Connecticut. Past experience proves, upon the repeated application of New-York, with their utmost zeal and engagedness, to Congress, and the supreme law court of the nation, the impracticability of removing a suit, legally instituted within a district, vested with the jurisdiction over the lands in controversy, to any other tribunal; from whence it may be concluded, that no court remains to be sought to for relief, but within the district of New-York; the event of such application therefore, in the district of New-York, we leave to reflection.

Whereupon the memorialists humbly pray your honors, to review and reconsider the aforesaid unhappy event, in the annals of Connecticut; and to resolve and order, that compensation be made to said proprietors from the avails of the Western Reserve, for the benefit of which, the resolve of May last did take place:—or that your honors will refer their claim against the state to indifferent judicious arbitrators, for a final decision and end:—or that this honorable Assembly will be pleased to advise, what measures ought nextly to be pursued, to obtain justice:—or in some other way provide the needed relief, and they, as in duty bound, shall pray.

Dated at Hartford, October 10th, 1800.

His Excellency the GOVERNOR, and the Honorable GENERAL
ASSEMBLY of the State of New-York, now in Session.

THE memorial and representation of the present claimants of the lands purchased of the state of Connecticut, commonly called the Gore, by their subscribing agents, fully represent;—That the state of Connecticut by a resolution or act of the legislature of said state, on the 5th of June 1795, for a valuable consideration, did give, grant, sell, pass, and convey a certain tract or parcel of land, with all its privileges and appurtenances, unto Andrew Ward and Jeremiah Halfey of said state, and to their heirs and assigns forever, by letters patent under the hand and seal of the governor of said state, for the time then being, which by him was so made and executed on the 25th of July 1795, in conformity to the resolve; which tract was situated and lay north of the north line of Pennsylvania, extending the whole length of said state from east to west; butted and bounded east upon Delaware river, south on the north line of Pennsylvania, being the 42^d of north latitude, west on lands ceded by Congress to said state of Pennsylvania at or near Presque Isle, and north of the south line of the original charter of Massachusetts. The memorialists would further represent, that relying upon the goodness of said sale, and grant, and its being under the authority of, and a title derived from a state, they have since at great expense, purchased into said lands, from and under said Ward and Halfey, and others holding from, and under them; and said tract is now claimed and holden by about one hundred and fifty persons, inhabitants of the United States, who have purchased into said contract, in many instances at the rate of from three to four hundred thousand dollars; well assured that the foundation and legal source of all title to the different states, was derived from grants from the different kings of England, and which was the only proper legal ground, and origin of title, by which any and every landholder throughout the United States held his possessions; and that as this tract or contested land, as claimed by the states of New-York and Connecticut, lay west of the Delaware, was wholly without the limits of the patent to the Duke of York, or any possessions the Dutch had, or ever pretended to have; and that there neither was or ever had been, as they have been advised and understood, from any proper, legal authority whatever, to give any title to those lands in controversy to the state of New-York:—

That on the contrary, the state of Connecticut had a title derived from the proper legal source; founded upon the most clear, and express grants of the crown; a charter granted by royal authority, that has never been vacated, nor surrendered, containing words sufficient to convey and pass both the right of jurisdiction and soil, and that in fact included within its limits, this claimed tract, or disputed territory the Gore; that therefore all purchasers under a grant from said state of Connecticut, could not but be safe, in adventuring their property therein in point of title; and the memorialists so considering themselves to have become the legal, and proper owners of said land, in order to gain the peaceable, and rightful possession of the same, by virtue of their purchase: were induced to commence several suits against the tertenants, in the prosecution of which, they have found, that one third in length on said purchase, or from the Delaware to the 82 mile stone, is the greater part thereof settled by purchase from and under the authority and great seal of the province or state of New-York: that the other two thirds, or 163 miles on said purchase is settled under a sale made to individuals by the commonwealth of Massachusetts:—on a view of which facts, and reflection on the foregoing premises, your memorialists are led previous to any other application, to make an appeal to the integrity, and justice of this honorable legislature; confident that if from a fair and candid statement of the Connecticut title, from its original source, it should appear that the title derived to the present claimants therefrom, is not only founded on principles of equity and right, but is valid and effectual in law; as by the usage and custom invariably practised upon in settlement of the country throughout the United States: and that if from mistake, or through the uncertainty of bounds, or from any other cause, those lands have been granted by the state of New-York to her citizens, to which there was not so good, so valid a title; that the virtue and good sense of this honorable body, will induce them to do to the present claimants, that justice, that is their due, and as may comport with the honor and dignity of the state; under these impressions, we submit to your candid consideration, the rise, progress, and effect of the title, under which we claim; together with a few remarks thereon:—

And observe, that this part of North America, was first discovered, and possession thereof first taken by the English; the subjects of the crown of Great Britain; that in 1497, Sebastian Cabot, a subject of England, under commission, and employ of Henry the seventh, discovered all the north-east coast of America, from Cape Florida in 25 degrees of north latitude, to 67½ degrees;—In 1606, king James the first passed the great north and south Virginia patent, and divided that part of the continent between 34 and 45 degrees, into two colonies. —In 1608, king James the first, gave a commission to one Henry Hudson, being in the employ of sundry London merchants, to sail to America, and make discoveries; that under which, he fell in with the continent, in about the 40th degree of north latitude; made a discovery of Long-Island, North River, &c. whereby the right to the country by virtue of this discovery, was in king James, as made under his commission; and the crown of England became fully entitled thereunto:—That the king of England, viz. king James the first, in whom as the head of the nation, that power is vested by their form of government, divided it into two great provinces, called South Virginia, and North Virginia, or New-England; to the south colony, he granted from the 34th to the 40th degree of latitude, and from the Atlantic ocean to the Pacific or South Sea:—In 1609 a second patent was passed to South Virginia:—In 1611 the third Virginia patent was granted. —In 1614 a number of Dutch merchants sent some persons to trade with the Indians, who built a fort at Manhattan or New-York: the same year Capt. Argole was sent by the governor of Virginia, to dispossess them, but they professing subjection to the king of England, were suffered to remain for, and on account of trade solely. —23d July 1620, there was an order of council for a patent for North Virginia, or New-England. —And in 1620, king James granted to the great Plymouth Council, and to their successors and assigns, New-England; “containing all that part of America lying, and being in breadth from the 40th degree of northerly latitude, from the equinoctial line to the 48th degree of the said north latitude, inclusively; and in length of, and within all the breadth aforesaid, throughout the main land from sea to sea, together also, with all the firm lands, soil, grounds, havens, ports, rivers, waters, fishings, mines, minerals, and all and singular other commodities, jurisdictions, royalties, privileges, franchises, and preeminences within the said tract of land upon the main; as also within the islands and seas adjoining:—Provided always, that the said islands, or any of the premises by the said letters patent, intended, and meant to be granted, be not actually possessed, or inhabited by any other Christian prince or state; nor be within the bounds, limits, or territory of that southern colony heretofore by us granted, to be planted by divers of our loving subjects in the south part:—and to the end, that the said territories may forever hereafter, be more particularly known, and distinguished; our will and pleasure is, that the same shall from henceforth be nominated, termed, and called by the name of New-England in America, and by that have continuance forever:—and further, our will and pleasure is, and we do by these presents, charge, command, warrant, and authorise the said council, and their successors, or the major part of them, which shall be present, and assembled for that purpose, shall from time to time, under their common seal distribute, convey, assign, and set over such particular portions of lands, tenements, and hereditaments, as are by these presents formerly granted unto each of our loving subjects, natural born, or denizens, or others, as well adventurers as planters, as by the said company upon a commission or survey, and distribution executed, and returned for that purpose, shall be named, appointed, and allowed, wherein our will and pleasure is, that respect be had as well to the proportion of the adventurers, as to the special hazard, exploit, or merit of any person to be recompensed, advanced, or rewarded, &c.”—

This grant is the foundation, on which stands, all the subsequent grants made to the colonies in the division of New-England; and of those exceptions in favor of all lands actually possessed or inhabited by any Christian prince or state.

The same year, the first settlers of the colony of Plymouth, procured a patent, for the country about Hudson's River; and failed thereof; but by the treachery of the pilot, were carried to what was afterwards called New-Plymouth. —In pursuance of those directions, in said grant to the Plymouth company, to convey and distribute said lands, for the purposes of settlement,

the said council of Plymouth, the 19th of March 1628, granted to Sir Henry Roswell and others, their heirs, and assigns and their associates forever; "all that part of New-England in America, which lies and extends between a great river there commonly called Monomack, alias Merimack; and a certain other river there called Charles River, being in the bottom of a bay, called Massachusetts, alias Mattachusetts, alias Mattatusetts Bay; and all and singular the lands, and hereditaments whatsoever, lying and being within the space of three English miles, on the south part of the said Charles River, or of any, or of every part thereof; and all and singular the lands, and hereditaments whatsoever, lying and being within the space of three English miles to the southward, of the southernmost part of the said Bay; and also, all those lands and hereditaments whatsoever, which lie and be within the space of three English miles to the northward of the said River Merimack, and to the northward of any and every part thereof; and all lands, and hereditaments whatsoever, lying within the limits aforesaid; north and south in latitude, and in breadth; and in length and longitude, of and within all the breadth aforesaid, throughout the main lands there, from the Atlantic and Western Sea and Ocean, on the east part, to the South Sea, on the west part; and all the lands and grounds, place and places, soil, wood and wood-grounds, havens, ports, waters, fishings, and hereditaments whatsoever, lying within said bounds and limits; and every part and parcel thereof; and also, all islands lying in America aforesaid, in the said seas, or either of them, on the western and eastern coasts, or parts of the said tract of land, &c. &c."

King Charles the 1st, by his letters patent, under the great seal of England, on the 4th of March 1629, confirmed the forgoing grant unto the said Henry Roswell and his associates, with the same bounds and limits.

In 1630, the said Plymouth Council granted to the Earl of Warwick, their president, a tract of land which comprehended what is now called Connecticut, and the same year obtained the king's charter of confirmation thereof.---March 19th 1631, he gave a deed of it to lords Say and Seal, Brook, and others, to the number of eleven, their heirs, and assigns, and their associates forever; particularly describing it to be, "all that part of New-England in America, which lies and extends itself, from a river there called Narragansett River, the space of

whatsoever, lying and being within the lands aforesaid, north and south in latitude and breadth; and in length and longitude, of, and within all the breadth aforesaid, throughout the main lands there, from the Western Ocean to the South Sea; and all lands, and grounds, soil, wood, and woods, ground, havens, ports, creeks, and rivers, waters, fishings, and hereditaments whatsoever, lying within the said space, and every part & parcel thereof; and also all islands, lying in America aforesaid in the said seas, or either of them, on the western or eastern coasts; or parts of the said tracts of lands, by these presents to be given or granted; and also all jurisdictions, rights, and royalties, liberties, freedoms, immunities, powers, and privileges whatsoever; to have, and to hold, the said part of New-England in America, which lies and extends and is abutted as aforesaid, &c."---The same year, Mr. Winslow, by invitation from the Indians, made a visit to Connecticut River, when there was neither trading house to the Dutch, nor had they any pretence to a foot of land there.

In 1634, the potent nation of Pequots in a formal treaty, gave up to the English their right to the river Connecticut, and the adjacent country.---The grantees under the last mentioned patent, appointed John Winthrop their agent, in their names to enter upon, and take possession of those lands for their use, and benefit; which he accordingly did, and made a settlement at the place called Saybrook:---a further number having crossed the country, from the Massachusetts plantation, settled under the same patent, above, upon Connecticut river; entered into articles, and established government, and became fully vested in said lands; having also obtained the native right by purchase and conquest, to most or all the lands within their patent, on the east side of Hudson's River; and extended their claim and settlements, to Delaware Bay and River; built a trading house there, purchased lands of the natives on both sides of the Delaware, and sent fifty families to settle there.

In 1644, the Connecticut people agreed and purchased of Mr. Fenwick, agent of lords Say and Seal, Brook and others, their associates, their grant aforesaid, for a large sum.---And in 1661, they petitioned king Charles the second, to give them a charter of government, and to confirm their grant as afore-

said, agreeable to the tenor of an instrument then ready presented; representing the purchase they had made of the natives; the conquest of the Pequots; their great expense in moving to, and settling in a wilderness; and especially they had laid out a large sum for purchasing a jurisdiction, right, of Mr. Fenwick; praying that his majesty would confirm those liberties, rights, authorities, and privileges, which were granted by the aforementioned patent, to certain lords and gentlemen, so purchased as aforesaid, or which were enjoyed from those letters patent, granted to the Massachusetts plantation; agreeable thereto, and in compliance therewith, April the 20th 1662, king Charles 2d, issued his letters patent under the great seal of Great Britain; and granted the prescription, the charter of Connecticut; wherein he constituted and declared John Winthrop, and his associates, a body corporate, and politic, in fact and name; "The governor and company of the English colony of Connecticut in New-England in America," with privileges, and powers of government, and jurisdiction over, and the exclusive right of preemption to, the lands within the boundaries in said patent; granting and confirming to said governor and company, and their successors for the reasons set forth in their petition, in the words following

"Know ye further, that we of our abundant grace, certain knowledge and mere motion, have given, granted and confirmed, and by these presents, for us, our heirs, and successors, do give, grant and confirm unto the said governor and company and their successors, all that part of our dominions in New-England in America, bounden on the east by Narragansett River, commonly called Narragansett Bay, where the said river falleth into the sea; and on the north by the line of the Massachusetts plantation; and on the south by the sea; and in longitude, as the line of the Massachusetts colony, running from east to west; that is to say, from the said Narragansett Bay on the east, to the South Sea on the west part, &c. with the islands therunto adjoining, together with all firm lands, soils, &c. and all, and singular jurisdictions, royalties and privileges whatsoever, within the said tract of lands, and islands aforesaid, to have and to hold the same, unto the said governor and company, their successors, and assigns forever; upon trust; and for the use and benefit of themselves, and their associates, freemen of said colony, their heirs and assigns; and we do, for us,

according to our true intent and meaning, herein before declared; as shall be construed, reputed, and adjudged most favorable on the behalf, and for the best benefit and behoof of the said governor and company and their successors."

That in pursuance of said right and power, derived from said patent or grant, and vested fully in the governors and company of Connecticut successively thereby, the then governor and company of Connecticut, did by their deed, patent or grant, give, grant, and convey, for a valuable consideration, on the 25th of July 1795, to the said Andrew Ward and Jeremiah Halsey, a certain part, portion, and parcel of said tract or state of Connecticut, bounded east on Delaware river, south on latitude 42, or Pennsylvania north line, west on lands deeded by Congress to Pennsylvania, at or near Presque Isle, and north on the original charter line of Massachusetts, as aforesaid: That said Ward, by his deed dated the 4th of August, 1795, conveyed and granted his said part or moiety to said Halsey, whereby he became vested with the whole property; since which, by many subsequent deeds of different dates, said lands, for very valuable considerations, have come into a great diversity of hands, the present claimants.---That it appears to have been an invariable practice of the crowned heads, in those earlier times, to sanction all conveyances by new charters, confirming, renewing, explaining, and ratifying the former ones to the assignees, as in the grants to Roswell, Warwick and others:---But they never undertook to diminish, enlarge, or in any way change or alter the extent, and bounds of those purchases made under the Plymouth council.

That the charter of Connecticut is to be taken into view in conjunction with the original charter to the Plymouth company, and their subsequent grants made by them and their assigns; as the same exceptions, limits, and extent are evidently intended in both; for there appears to be such an agreement in description or limits bounding the lands granted therein, with those describing the lands intended to be conveyed by the council of Plymouth to lords Say and Seal, Brook, and others; that it cannot be doubted, that the same lands in situation and extent, were really intended to be granted by each of those respective grants; that when it happens that any expressions

found in either of those grants are attended with uncertainty, the same may be properly explained, or supplied by a more explicit description of such parts, in the other grant.

That by the general practice and consent of Europe, it has become a law of nations, that the discovery of a new country and entry by the subjects of a Sovereign, vests him, as king, with that right in law which accrues by such a discovery; if the same be uninhabited, the king becomes vested with the fee, property and dominion over the same; if the same be inhabited or possessed by the native claimers, the king becomes vested only with the equitable right, with a right of exclusive purchase or preemption to the part inhabited; and whenever the native title was added to his own, by fair purchase, the absolute property was vested in him, and he then became the sole and exclusive owner; such a right of property and preemption being in its nature transferable, a conveyance in fee simple of the territory, must transfer all his right and property in the soil, and fully vest the grantee with the same; that in this sense the royal grants and charters have been universally understood, practised upon, and carried into effect; those that were entitled by virtue of such grants, have entered upon, and holden their lands, after having obtained the native right from the Indians, without molestation; that in the full exercise of such right, the several colonies, provinces and proprietaries have made distribution of their several parts or parcels of their apportioned territory, by different modes of sale, agreeable to the laws of each state, down to the present owners; and which indeed is the foundation and origin of title, by which every landholder throughout the United States holds his possessions.

That king James's grant actually passed to the Plymouth company, all the right of which the king could possibly be possessed in 1620, and thereby that company became vested with the same right, both of fee and preemption, in and to all the lands, soils, &c. within the limits and extent of their grant; subject however to those exceptions therein recited; that under those successive grants from said company to the earl of Warwick, from the earl of Warwick to lords Say and Seal, &c. and from lords Say and Seal, &c. by Mr. Fenwick, their agent, the settlers within the limits thereof, proceeded to purchase of the natives their rights, to settle and cultivate their lands, and extend their plantations and improvements, when on application in 1662, from king Charles 2d. they received the royal sanction to, and confirmation of all those former above mentioned grants, which the colony then governed, had transacted their purchase of the natives, to have, hold, possess, and dispose of the same as they might see fit.

That the words, terms and expressions, are most clear, full and explicit, to express the grant, to point out the estate and thing granted, and every way full and adequate to pass all that right, property, and estate of the grantor, to the grantees, in the most clear, unequivocal and ample manner; so that the governor and company of the colony of Connecticut became thereby vested with the whole right, title property and estate, absolutely and indefeasibly, and to every acre of land comprehended within the bounds and limits expressed in said charter, that was not reserved by the exception before noticed.

That the extent, location, limits and boundaries of those grants, are so clearly, fully and explicitly pointed out, and in so clear and intelligible words, that if there is any meaning to words, any meaning to the English language, those bounds are too clear and plain, to even admit of any doubt or dispute.

That the charter of 1662 of itself, the idiom of the English language cannot furnish words, sufficient to form a stronger, or more explicit declaration, in point of location, extent and limits; if but the plain letter, commonly allowed meaning, genuine intended construction, and spirit of this particular and explicit grant, is the rule admitted in judging upon the same.—That this tract, the *Sore*, lies, and is situated wholly below, or south of the true line of Massachusetts, as by their charter; that as the charter bounds of the state of Connecticut are, that it is bounded on the north by the south line of Massachusetts to the south sea; on the east by Narragansett river; on the south by the sea, that is as far as it was at that time a boundary to the king's dominions in New-England; thence running agreeable to the charter, all the breadth between the Massachusetts south line, and the said southern boundary, in longitude west to the south sea the western bounds; it fully and clearly includes and comprehends the lands in dispute as aforesaid, and within the charter limits of the state of Connecticut.—That whatever was not excepted out of the great New-England patent within the boundaries therein described, was granted, and

did pass to the original patentees at the time of the grant, in the most express and ample manner; that as whatever were the limits of the Dutch possessions, precisely; whatever they actually possessed, was the agreed precise extension of the excepted tract, and nothing beyond; and which did not pass by the charter to Connecticut, but was afterwards granted to the duke of York, which grant was made to extend to, and is expressly bounded on the west by the east bank of the Delaware, and on the east, by the west bank of Connecticut river:—That the land in controversy, and all the lands west of the Delaware, within the descriptive limits of the Connecticut charter, lie clearly west of any such plantations or possessions; they were not touched by the exception, but were as firmly granted to the original patentees, as any land within the New-England patent, or any patent throughout America; there was the same conveyance of the whole of the land, of each end, as there was of any part of it (that was not excepted) and to all intents and purposes passed by the royal grant, and vested in the governor and company of the colony of Connecticut, and could by no means be included in the exception, expressed, or implied.

And as the said charter to the duke of York, was dated two years after that to Connecticut, therefore as far as the same lapped on, or interfered with the grant to Connecticut it could be of no avail, as the lands or property was not at the time the duke's patent was made, in the king to convey, but in the governor and company of Connecticut by virtue of their older charter;—and altho' bounds were given to the duke's grant, which interfered with the Connecticut grant, still as the Connecticut grant was of anterior date, in construction of law, the duke's grant must be considered as only extending to, bounding by, or comprehending what was not included within the same, or was expressly excepted therefrom; which were only the lands, that the Dutch claimed to have been possessed of, on, and near to Hudson's River, within the limits of the Connecticut charter or grant; and all he became entitled to, either in law or equity, by virtue thereof, was what was alone in actual possession of, and surrendered by the Dutch; and as their surrender extended no farther than their possessions, it included no part of the lands conveyed by the Connecticut charter:—and all settlements of partition lines between the province of New-York and colony of Connecticut, were solely confirmed by the duke's grant, and could not have any influence upon the title of the land now in controversy, west of the Delaware; or any claims either of the states had, to lands west of said river.

—And the memorialists would further observe, that the title of Connecticut to said lands, claimed by them, have never been relinquished or surrendered, but ever asserted and supported; and jurisdiction has been exercised over the same by the state, west of the Delaware, and north to said Massachusetts south line, until the same was entered upon by the present actual possessors: as appears by the records of said state of Connecticut.

Your memorialists would further represent, that as they feel confident, that the legal and equitable title to said lands, with all privileges, and appurtenances thereto belonging, are well vested in them; they are therefore desirous for an opportunity, to demonstrate, and shew, the truth of all the foregoing facts, by various documents, and authorities; unless from those facts already stated, it should be judged expedient, that said dispute should end by their being possessed of said lands; or by their receiving from the state of New-York a just compensation for said lands: or that the memorialists should not be interrupted, in taking and enjoying the peaceable possession of all lands within said purchase west of the said 82 mile stone, agreeable to the charter of Connecticut; and for the eighty two miles from the Delaware, that they receive a suitable compensation for the right of soil, and relinquish all future claims thereto.—Or, that the facts in, and concerning the premises, be fairly stated, and the question of right therefrom arising, that it be brought before, submitted to, and legally decided by the supreme court of the United States, at their next session: either of which methods would end said dispute, and prevent the contending parties from further entering into legal process, and protracting litigation, which otherwise the memorialists will be under a necessity, and in duty bound to do: Wherefore they pray the consideration of your honors, at your present session, and an opportunity either before your honors or a committee by the legislature to be appointed for that purpose, to be heard at large in the premises, that so justice may be done to all concerned.

Dated, *Connecticut*, this 9th day of March A. D. 1801.

